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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,467	07/11/2003	Brian V. Jenkins	7701	3252

7590 08/30/2005

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EXAMINER

JASTRZAB, KRISANNE MARIE

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,467

Applicant(s)

JENKINS ET AL.

Examiner

Krisanne Jastrzab

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al., U.S. patent No. 6,762,832 B2 in view of Rao et al., U.S. patent No. 5,278,074.

Fisher et al., teaches the inclusion of a corrosion inhibitor, particularly an aromatic triazole such as benzotriazole and tolytriazole, in aqueous systems including treatment baths for copper—containing semiconductors or circuits. The concentration of corrosion inhibitor present is monitored by a UV spectroscopic system and feedback control is actuated based on the monitored concentration. Flow-through sample cells are provided at a plurality of locations in the aqueous system with pump and valve means being provided for the controlled introduction of fluids and corrosion inhibiting solutions based on the monitored concentrations. Sampling from the system can be performed continuously. Precise control of the desired concentration of the corrosion inhibitor is achieved with the monitoring and feedback control disclosed.

Rao et al., teach substituting a fluorometric monitoring system for spectroscopic systems used to monitor corrosion inhibitor concentrations in copper-containing aqueous systems, those inhibitors preferably including aromatic azoles such as benzotriazole and tolytriazole. Rao et al., teach that azoles are inherently fluorescent and that a fluorescent monitoring system is more accurate and more effective than spectroscopic system whose radiation acts to degrade the corrosion inhibiting composition, and thus provides more accurately controlled dosing of the inhibitor. Monitoring with the fluorescent system can occur either intermittently or continuously.

Rao et al., further teach the provision of a sidestream from the aqueous system being monitored and pump and valve means to actuate the responsive dosage control. See column 1, lines 11-51, column 5, line 55 through column 6, line 21 and column 11, lines 10-30.

It would have been obvious to one of ordinary skill in the art to substitute the fluorescent measurement/monitoring taught by Rao et al., for the spectroscopic monitoring in the corrosion control system of Fisher et al., because the fluorescent system does not degrade the preferred corrosion inhibitors, and in fact, utilizes their inherent characteristics for more accurate concentration readings.

With respect to claims 4-6, both references teach application and monitoring of the inhibitor having concentration within the instantly claimed ranges. See column 11, lines 54-56 of Rao et al., and column 7, lines 50-55 of Fisher et al.

Response to Arguments

Applicant's arguments filed 6/14/2005 have been fully considered but they are not persuasive. Applicant argues that one of ordinary skill in the art would not substitute the fluorescence measurement of Rao for the absorption spectroscopy of Fisher because the measuring/monitoring system of Fisher is based on the absorption of light, while a fluorescence measurement, as in Rao, is not. The Examiner does not disagree that absorption spectroscopy is based on light absorption and fluorescence measurement is not, however, the Examiner would disagree with Applicant's allegation that one of ordinary skill in the art would not substitute a fluorescence technique for an

absorption technique. Both techniques are conventionally recognized measurement techniques capitalizing on characteristic traits of the chemicals being monitored.

Applicant further alleges that the operating conditions of the systems of Rao and Fisher are completely different in that Rao operates in an industrial application with a predominance of anions and cations present in the water, while Fisher and the instant application operate with ultrapure water for semiconductor applications, thus one would not have been motivated to use the measuring/monitoring system of Rao in the pure system of Fisher, however, the Examiner would maintain that if Rao is capable of operating efficiently in a system that has extraneous contaminants, it would clearly be capable of operating in an ultrapure system.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

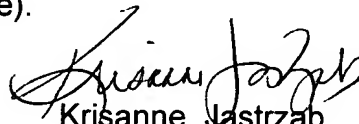
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-1279. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Krisanne Jastrab
Primary Examiner
Art Unit 1744

August 29, 2005